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Superior Court Of California
County Of Los Angeles

SEP 18 2017

Executive Officer/Clerk
By _____, Deputy
Shantal Luqueño

Superior Court of California
County of Los Angeles
Department 32

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. GEORGE A. PANOUSSIS, *et al.* Defendants.	Case No.: BC624202 Hearing Date: September 15, 2017 **ORDER RE:** MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, SUMMARY ADJUDICATION

BACKGROUND

This is a civil enforcement action brought by the Los Angeles City Attorney's Office on behalf of the People of the State of California ("Plaintiff") against Defendants George Panoussis ("Panoussis") and Novap Corporation ("Novap") (collectively, "Defendants"). Plaintiff alleges that Defendants own and manage an illegal hotel located on North Van Ness Avenue in Los Angeles ("Subject Property"). Plaintiff alleges that Defendants have converted Van Ness from its legal approved use as an apartment building into an illegal hotel known as "Hollywood Dream Suites Hotel ("HDSH"). Plaintiff asserts causes of action for (1) Los Angeles Municipal Code § 11.00; (2) public nuisance in violation of Civil Code § 3479; (3) unfair competition law; and (4) false advertising practices.

REQUEST FOR JUDICIAL NOTICE

The parties' requests for judicial notice are GRANTED.

EVIDENTIARY OBJECTIONS

Pursuant to CCP § 437c(q), "the court need rule only on those objections to evidence that it deems material to its disposition of the motion. Objections to evidence that are not ruled on for purposes of the motion shall be preserved for appellate review." The Court finds that the parties' evidentiary objections are immaterial to the disposition of this motion. All objections are preserved for appellate review.

DISCUSSION

A motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to judgment as a matter of law. (CCP § 437c(c).) There is a triable issue of fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal. 4th 826, 850.) On its motion for summary judgment, the plaintiff maintains the burden that each of the elements has been proved and that there is no defense available, while on its motion the defendant must persuade the court that one of the elements in question cannot be established or that there is a complete defense.

Plaintiff moves for summary judgment on the grounds that the evidence establishes that Van Ness is and has always been characterized as an "apartment house," and thus Defendants are prohibited from using it as a hotel. In opposition, Defendants do not dispute any of the 156 facts submitted in Plaintiff's separate statement, except to argue that the definition of "apartment house" under the 1923 State Housing Act did not prohibit short term rentals. As such, the Court treats all of Plaintiff's facts as undisputed.

Defendants argue that at when the Subject Property was built in 1927, the governing law was the 1923 version of the State Housing Act ("SHA"), which defined "apartment house" as "any building, or portion thereof. . . which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living

independently of each other and doing their cooking in said building." (Stats. 1923, ch. 386, § 10, p. 788, Supp. RJN Exh. 1, P009.) Defendants argue that the SHA did not require that an apartment house rent units for long term, i.e. more than 30 days. Defendants argue that in 1927, the use and occupancy of the Subject property was for short term and long term rentals, and this use is "grandfathered in" pursuant to LAMC § 91.8103.1, and Cal. Health & Safety Code § 18938.5. The Court finds these arguments unconvincing for a number of reasons.

First, it is undisputed that first ever building permit issued for the Subject Property (issued on April 22, 1927), stated that the purpose of the building as for an "apartment." (UMF 34.) Defendants' separate statement asserts that "[t]here were no laws that prohibited short-term rentals in 1927, the year 830 Van Ness was built." (PMF 10.) However, Defendants submit absolutely no evidence that the Subject Property was intended for short term and long term rentals at the time it was built. Thus, Defendants' assertions are unsupported by any evidence, and are therefore insufficient to create a triable issue of fact.

Second, Defendants' interpretation of the 1923 version of the SHA is unconvincing. Defendants seemingly argue that because the SHA did not define "apartment house" by rental length, i.e. a rental term longer than 30-days, the SHA thus implies that an "apartment house" could also be used as a hotel. However, the SHA also defined "hotels" and a third class of buildings: "combined apartment house and hotel." (Stats. 1923, ch. 386, § 10, p. 790, Supp. RJN Exh. 1, P012; Stats. 1923, ch. 386, § 5, p. 784, Supp. RJN, Exh. 1, P005.) Thus, to assert that the absence of a defined rental term implies that an "apartment house" could also be used as a "hotel" runs contrary to all logic. The very law on which Defendants rely expressly distinguishes between apartments, hotels, and "combined apartment house and hotel."

Third, Cal. Civil Code § 1944 provides: "A hiring of lodgings or a dwelling house for an unspecified term is presumed to have been made for such length of time as the parties adopt for the estimation of the rent. Thus a hiring at a monthly rate of rent is presumed to be for one

month. In the absence of any agreement respecting the length of time or the rent, the hiring is presumed to be monthly." This code section was enacted in 1872 and is current without modification. As such, even before the SHA was passed, the law presumed that the rental of a dwelling was month-to-month.

Fourth, even assuming that Defendants assertions are true, Defendants argument that the Subject Property's prior use is "grandfathered in" is without merit. The SHA authorized municipalities to "by ordinance or law. . . further restrict. . . [the] number of apartments or rooms [or] the *occupation therof*." In 1964 and 1979, the City passed municipal codes that clarified that occupants in hotels stayed for 30 days or less, and that occupants in apartments stayed for more than 30 days. (LAMC §§ 21.7.2, 151.02; RJN Exh. 10, 14.) Furthermore, Defendants cannot assert that the Subject Property's prior use as a hotel was "grandfathered in" because the Subject Property was never authorized for use as a hotel.

Additionally, Defendants make a number of procedural arguments, which are without merit. Defendants argue that summary judgment and/or adjudication cannot be granted because Plaintiff fails to prove damages. Plaintiff is not seeking damages, but is seeking civil penalties and injunctive relief. Furthermore, equitable remedies need not be determined at the hearing on a motion for summary judgment. (*See People v. Superior Court of Los Angeles County* (2015) 234 Cal. App. 4th 1360, 1374.)

Based on the foregoing, Plaintiff carries its burden to prove each element if its claims and to show that no defense is available. Defendants fail to submit any evidence in response that would create a triable issue of fact.

The motion is GRANTED.

DATED: September 18, 2017

Honorable Daniel S. Murphy
Judge, Los Angeles Superior Court

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